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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,606	08/16/2001	Ullrich Thiedig	64251-030	3007

7590

03/12/2003

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EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,606

Applicant(s)

THIEDIG ET AL.

Examiner

Boyer D. Ashley

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 7-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 & 4.
- ☐ Interview Summary (PTO-413) Paper No(s) _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Art Unit: 3724

DETAILED ACTION

Election/Restrictions

1. Applicant's election of group III, claims 6 and 14-19, in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 1-5 and 7-13 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6 and 14-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, there is no positive antecedent basis for "the environment", "the contrast", and "the measured face".

In claim 15, there is no positive antecedent basis for "the central region", "the cover", "the front and central portions", "the side walls", and "the bottom".

In claim 16, there is no positive antecedent basis for "the front portion" and "the cover".

Art Unit: 3724

In claim 17, there is no positive antecedent basis for "the rear region", "the cover".

In claim 18, there is no positive antecedent basis for "the central region", "the exposed side wall".

In claim 19, there is not positive antecedent basis for "the side wall".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14-19
6. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Rudy et al., U.S. Patent 4,875,254.

Rudy et al. discloses the same invention as claimed including, for example, a separating device (98); an advance device (12/22); an optical detection device with lamps (82/72/74) for determine a face contour of the workpiece; a tunnel (90/92/94) with an end adjacent the separating device (see Figure 2); and means for mounting the lamps (as shown the lamps are attached to the tunnel portion and therefore there is means for mounting, see column 4, lines 30-35) in the tunnel and in a planar fashion.

As to claim 14, the tunnel is made out of reflective material because the slot 84 would not be necessary if the light did not reflect inside the chamber 76.

Art Unit: 3724

As to claim 15, the tunnel is comprises of a first region (78/76) with a front surface (area around 84) and consists of a front surface, a central region, side walls and a bottom (see Figure 2).

As to claim 16, the tunnel comprises a second region (the area below sign 84) and includes the front portion.

As to claim 17, the tunnel comprises a third region (the area below sign 84) and includes a rear region. The phrase "in which the lamps deliver radiation directly obliquely forwards towards the face" does not serve to further limit the invention because it is merely functional/intended use not defining any specific structure. It should noted that in apparatus claims the workpiece does not serve to distinguish the claimed invention from the prior art, i.e. the invention cannot be defined in terms of the workpiece.

As to claim 18, the tunnel comprises a fourth region (the area below sign 84) and includes a central region. The phrase "in which the lamps deliver radiation directed straight onto the source body" does not serve to further limit the invention because it is merely functional/intended use not defining any specific structure. It should noted that in apparatus claims the workpiece does not serve to distinguish the claimed invention from the prior art, i.e. the invention cannot be defined in terms of the workpiece.

As to claim 19, a side wall (12) is slidable. Moreover, it should be noted as stated above the claimed invention cannot be defined in terms of the workpiece.


Art Unit: 3724

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday thru Thursday between 7:30am and 6:00pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.


Boyer D. Ashley
Primary Examiner
Art Unit 3724

bda
March 9, 2003